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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,854	02/09/2004	David G. Peot	OWT 0119 PUS1	9516

22045 7590 12/17/2004

BROOKS KUSHMAN P.C.  
1000 TOWN CENTER  
TWENTY-SECOND FLOOR  
SOUTHFIELD, MI 48075

EXAMINER
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FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/774,854

Applicant(s)

PEOT ET AL. *on*

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *spring* 73 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

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improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2, 4-7, 10-13, 15-18 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-19 of U.S. Patent No. 6,755,107 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Applicant's claims reading on patent's claims	Patent'107's claims
1 and 11	11 and 12
combination of 1 and 2 combination of 11 and 12	11 and 12
4	14
5	11
6	13
7 and 15	15
10	18
combination of 11 and 13	12

16	16
17	17
18	18
19	19

For example, applicant's claim 1 having the same structure of patent'107's claims 11 and 12, comprising a motor, a spindle, a saw base, an arm, a blade, a light source, a moveable guard and an opaque portion.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6-9, 20, 21-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosten et al. (5375495) in view of Caluori et al. (6035757).

Bosten et al. disclose (Fig. 1-5) the invention substantially as claimed including a motor 34, a spindle 152, a saw base 16, an arm 28, a blade 36, a light source 56, a movable guard 50, an opaque portion (col. 3, lines 62-65)(where the rest of the guard that surround the slit 58 is the opaque portion), a fence 22 and a fixed guard portion 48. Bosten et al. do not show the light source mounted to the spindle an arranged to be rotated by the motor, a housing including a second mounting/arcuate surface, an arbor/screw including a first mounting/arcuate surface, a

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plurality of batteries and a spring contact. However, Caluori et al. teach the use of a light source 40 mounted to the spindle an arranged to be rotated by the motor (see Fig. 2A) a housing 12 including a second mounting/arcuate surface, an arbor/screw 44 including a first mounting/arcuate surface a plurality of batteries 16 and a spring contact 15 for the purpose of automatically self-aligning with the blade cut line and having a better accuracy for projecting the light on the work. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bosten et al.'s device by providing the light source 40 mounted to the spindle an arranged to be rotated by the motor, the housing including a second mounting/arcuate surface, the arbor/screw including a first mounting/arcuate surface, the plurality of batteries and the spring contact as taught by Caluori et al. in order to automatically self-align with the blade cut line and have a better accuracy for projecting the light on the work.

6. Claims 2-5, 11, 12, 14-18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosten et al. (5375495) in view of Caluori et al. (6035757) as applied to claims 1 and 2 above, and further in view of Waite (5996460).

The modified device of Bosten et al. disclose (Fig. 1-5) the invention substantially as claimed except for a transparent area and a mask having a gap/pattern of transparent area. However, Waite teaches the use of a transparent area (74 and 122) for the purpose of protecting the indicator from dust and debris. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bosten et al.'s device by providing the transparent area as taught by Waite in order to protect the laser from dust and debris.

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Also, Bosten et al. teaches the use of an interrupted pattern of light (see Fig. 8A-C) and an opaque portion (col. 3, lines 62-65)(where the rest of the guard that surround the slit 58 is the opaque portion); and Waite teaches the use of an opaque area (66 and 70) with a non-opaque area (68 and 70) and a transparent area (74 and 122), instead of a mask having a gap/pattern of transparent area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bosten et al.'s device by providing the mask having a gap/pattern of transparent area since the examiner takes Official Notice of the equivalence of an opaque area with a non-opaque area and a transparent area; and the mask having a gap/pattern of transparent area for their use in the saw art and the selection of any of these known equivalents to blacking or allowing light to pass through would be within the level of ordinary skill in the art.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosten et al. (5375495) in view of Caluori et al. (6035757) as applied to claim 24 above.

The modified device of Bosten et al. disclose (Fig. 1-5) the invention substantially as claimed except for batteries removed with a cover. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Bosten et al.'s device by providing the batteries removed with a cover, since it has been held that rearranging part of an invention only routine skill in the art. *In re Japikse*, 86 USPQ 70.

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*Conclusion*

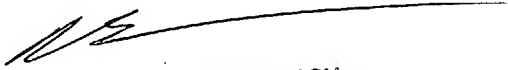
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hill, Becker, Kelly, O'Banion, Saito et al. and Hsiung are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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December 13, 2004

  
KENNETH E. PETERSON  
PRIMARY EXAMINER